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State of Idaho

Legislative Services Office

## Management Report

A communication to the Joint Finance-Appropriations Committee

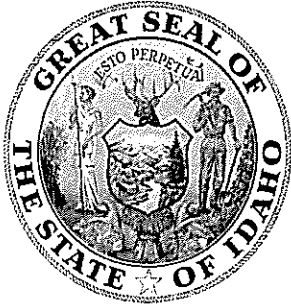
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# IDAHO DEPARTMENT OF WATER RESOURCES

FY 2008, 2009, AND 2010

**Report IC36010**  
**Date Issued: May 20, 2011**

*Serving Idaho's Citizen Legislature*



Don H. Berg, Manager

Idaho Legislative Services Office  
Legislative Audits Division

## IDAHO DEPARTMENT OF WATER RESOURCES

### SUMMARY

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#### **PURPOSE OF MANAGEMENT REVIEW**

We conducted a management review of the Idaho Department of Water Resources covering the fiscal years ended June 30, 2008, 2009, and 2010. Our review covered general administrative procedures and accounting controls to determine that activities are properly recorded and reported.

The intent of this review was not to express an opinion, but to provide general assurance on internal controls and to raise the awareness of management and others of any conditions and control weaknesses that may exist and offer recommendations for improvement.

#### **CONCLUSION**

We did not identify any significant conditions or weaknesses in the general administrative and accounting controls of the Department.

#### **FINDINGS AND RECOMMENDATIONS**

There are no findings and recommendations in this report.

#### **PRIOR FINDINGS AND RECOMMENDATIONS**

There were no findings and recommendations in the prior report.

#### **AGENCY RESPONSE**

The Department has reviewed the report and is in general agreement with its contents.

#### **FINANCIAL INFORMATION**

The following financial data is for informational purposes only.

**IDAHO DEPARTMENT OF WATER RESOURCES- FISCAL YEAR 2010**

Fund	Fund Title	Beginning Appropriation/ Cash	Receipts/ Transfers	Expenditures/ Tranfers	Ending Appropriation/ Cash
0001	General Fund	\$11,405,620	\$2,202	\$11,390,865	\$16,957 *
0125	Indirect Cost Recovery - SWCAP	296,137	523,111	408,538	410,710
0129	Aquifer Planning & Management Fund	7,798,323	80,828	1,864,610	6,014,541
0229	State Regulatory Funds	824,089	695,024	825,942	693,171
0337	Water Resource Adjudication Fund (Claims)	64,117	204,868	37,843	231,142
0348	Federal Funds	50,129	1,149,920	1,176,781	23,268
0349	Miscellaneous Funds	402,199	904,037	937,404	368,832
0490	Rural Rehabilitation Fund	13,286,860	5,768,074	6,057,574	12,997,360
0630	Custodial Fund	17,839	0	0	17,839
	<b>TOTAL</b>	<b>\$34,145,313</b>	<b>\$9,328,064</b>	<b>\$22,699,557</b>	<b>\$20,773,820</b>

\*All but \$5,100 encumbered funds and \$450 petty cash was reverted to the State General Fund.

This report is intended solely for the information and use of the State of Idaho and the Department of Water Resources and is not intended to be used by anyone other than these specified parties.

We appreciate the cooperation and assistance given to us by the interim director, Gary Spackman, and his staff.

**ASSIGNED STAFF**

Eugene Sparks, CPA, CGFM, Managing Auditor

Elizabeth Yturalde, CPA, CGFM, In-Charge Auditor

Wade Kimball, Staff Auditor

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## AGENCY RESPONSE

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## State of Idaho

# DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

May 5, 2011

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

Eugene Sparks, Managing Auditor  
Legislative Services  
Audit Division  
P O Box 83720  
Boise, ID 83720-0054

Dear Gene,

We agree with the audit report presented to us on April 27, 2011 covering the fiscal years ended June 30, 2008 through 2010. I am proud of the financial services staff of the Department of Water Resources as well as the other employees who work here. In particular, Debbie Allen of this office is an invaluable resource to the Director because of her rigorous adherence to accounting standards and her unwavering commitment to ethical principles.

Thanks to you and your staff for their conscientious effort on this project. In particular, I commend Liz Yturralde and Wade Kimball. Both interacted seamlessly but effectively with staff. I sensed they thoroughly examined the processes of this Department to determine whether we are properly executing our stewardship, while applying a refreshing standard of reasonableness. We appreciated the informative discussion with them regarding the audit results, and the suggestions for enhancements to our present control systems.

Sincerely,

A handwritten signature in black ink that reads "Gary Spackman". The signature is fluid and cursive, with the first name "Gary" and last name "Spackman" clearly distinguishable.

Gary Spackman  
Interim Director

# APPENDIX

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## HISTORY

In 1895, the 3rd Session of the Idaho Legislature created the State Engineering Department. In order to protect the State's constitutional right to control the sale, rental, and distribution of water, the State Engineer was directed to:

1. Become familiar with waterways and irrigable lands
2. Measure stream flows to determine which waters would be used for irrigation
3. Collect facts on suitable locations for reservoirs
4. Keep records of all measurements and examinations

At that time, in order to appropriate water from a river or stream for private use, a notice was posted at the diversion point. The notice was similar to those used to stake out mining claims. This system became unsatisfactory due to the absence of written records and consequent lack of control. In 1903, a recording system was established through the use of permits. Under the new system, water could be appropriated for any "beneficial use" after the specified forms were filed with the State Engineer. The revised system gave the State Engineer sufficient authority to bring about an equitable and economical distribution of water.

In 1919, the Department's name was changed to the Department of Reclamation and subsequently, in 1970, changed to the Department of Water Administration. At that time, the Department assumed the administration of the Carey Act from the State Land Board. The Carey Act was passed by Congress to assist in securing common land ownership and to encourage investment in the construction, under State control, of irrigation systems for reclamation of arid lands. The Department's duties were to receive, file, and investigate all proposals for construction of irrigation systems to reclaim lands selected under the Act. Administrative costs were paid from application fees.

As it became more economical to lift water from underground aquifer systems, it became apparent that regulatory laws were needed to establish water rights and controls to prevent damage to aquifer systems. Groundwater laws were passed in 1951 (and amended in 1953) to establish a statutory procedure for granting a "priority" of rights to groundwater. Most regulatory controls centered on the State's internal use of water resources.

In the early 1960s, several national and international water transfer proposals were advocated, suggesting that water from the northwestern part of the United States could be transferred to the southwestern part. Consequently, in 1964 Idaho citizens ratified a constitutional amendment (Article XV, Section 7) authorizing creation of a water resource agency. The 1965 Idaho Legislature then created the Idaho Water Resource Board. The Board's primary function was to develop a statewide water plan.

On July 1, 1974, executive reorganization merged the Idaho Water Resource Board with the Department of Water Administration to form the Department of Water Resources.

In 1974, the Idaho Office of Energy was created by executive order. Responsibility for the Office of Energy was transferred from the Governor's Office to the Public Utilities Commission and back again. On November 10, 1982, the responsibility for the Office of Energy was transferred to the Department of Water Resources. The executive order that caused the transfer indicated that water was a vital energy resource, and that consolidation of the two activities relating to water resources and energy would provide more efficient services. Executive Order 2007-15 removed the Energy Division from the Department and created the Office of Energy Resources within the Governor's Office.

In 1984, the State (through the Governor and the Attorney General) and Idaho Power agreed to negotiate a settlement of the Snake River water rights conflict. Included in the agreement was a requirement to adjudicate all water rights in the Snake River Basin. In Idaho, water adjudications are conducted by the court. The Department of Water Resources acts as a technical expert for the court by conducting investigations of existing water rights.

When the investigations are completed, the Department will compile a report of water right claims for the court. The court will confirm the rights as property rights.

The Snake River Basin Adjudication is the largest adjudication attempted in Idaho (possibly in the nation) and approximately 151,100 water right claims have been filed through September 2010, and about 148,400 water right decrees have been issued by the court.

### **PURPOSE**

The purpose of the Department of Water Resources is to ensure optimum and beneficial utilization of the State's water resources. The Department accomplishes its purpose by:

1. Assisting the Water Resource Board in developing plans to best utilize water resources
2. Administering laws that protect and control the use of water resources
3. Administering energy conservation studies and projects funded by the federal government

### **STATUTORY AUTHORITY**

Statutory authority for the Department is found in the Idaho Constitution, Article XV, Section 7, which states: "There shall be constituted a Water Resource Agency composed as the Legislature may now or hereafter prescribe, which shall have power to formulate and implement a State Water Plan." Idaho Code, Title 42, Chapter 17 provides authority for the Department's operations. Specifically, Section 42-1701 provides for creation of the Department of Water Resources and Section 42-1732 establishes the Idaho Water Resource Board pursuant to the provisions of the State Constitution. Chapter 33, Title 67, Idaho Code covers the Department's authority related to administration of the Carey Act.

### **ORGANIZATION**

The director of the Department of Water Resources is directly responsible to the Governor. The director is appointed by the Governor to serve at his pleasure and is directly responsible to the Governor. The Governor also appoints the eight-member Water Resources Board to four-year terms. The Board assigns administrative duties and other functions to the director to enable the Board to carry out its powers and duties.

The Department's organization during the review period consisted of two functional divisions and two support bureaus. The divisions include the Water Management Division and the Planning and Technical Services Division. The support bureaus consist of Legal Services and Support Services. An organizational chart is included as the last page of this Appendix.

### **FUNDING**

The Department receives funding from General Fund appropriations, fees, and federal sources. The following lists the fees collected as authorized by Idaho Code:

Section 42-221 authorizes collection of permit fees to appropriate public water or change existing permits.

1. Section 42-238 authorizes collection of license fees for well-drillers.
2. Section 42-1414 authorizes collection of filing fees for adjudication of water rights.
3. Section 41-1713 authorizes collection of inspection fees for dams.



4. Section 42-2038 authorizes collection of fees for applications submitted under the Carey Act.
5. Section 42-3905 authorizes collection of permit fees to construct waste disposal and injection wells.
6. Sections 42-4003 and 42-4011 authorize collection of permit fees for geothermal projects.
7. Section 42-2605 authorizes the collection of penalties for unauthorized sale of water rights.
8. Section 42-248 authorizes the collection of fees for filing a change of ownership of a water right.

The following is a description of the funds used by the Department:

**General Fund (0001)** – This fund is used to administer the statutory requirements of the Department and to pay personnel costs, operating expenses, capital outlay, and trustee and benefit payments for the general operation of the Department.

**Indirect Cost Recovery Fund (0125)** – This fund consists of money recovered from indirect costs charged to federal agencies and other non-federal entities for administration costs of federal grants and other water and energy projects.

**Aquifer Planning and Management Fund (0129)** – This fund was established in 2008 to be used for technical studies, facilitation services, hydrologic monitoring, measurement, and comprehensive plan development associated with the statewide comprehensive aquifer planning and management effort.

(I.C. § 42-1780)

**Aquifer Planning and Management Fund (0129-01)** – This fund was created in 2010 and amended Idaho Code, Section 42-1780 to provide a secondary fund consisting of monies appropriated to the fund; moneys voluntarily contributed by water users or through water delivery entities or districts having authority to contribute; through contributions, gifts, or grants from any other source; and any other money that may hereafter be provided by law. All moneys in the fund are appropriated continuously to the Water Resource Board for technical studies, facilitation services, hydrologic monitoring, measurement, and comprehensive plan development.

**Water Administration Fund (0229-21)** – This fund receives revenue from water right applications, permits, filing fees, well-drilling licenses, and various other water-right-related application fees. These funds are to be used for the administration of the provisions of Title 42 of Idaho Code. (I.C. § 42-238)

**Water Rights Enforcement Fund (0229-22)** – This fund receives civil penalties collected by the Department for the illegal diversion or use of water. Funds are reserved and set aside and appropriated for the water rights enforcement program as directed by the Department director. (I.C. § 42-1778)

**Water Resource Adjudication (0337)** – This fund was established in 1985 as a result of legal decisions concerning the usage of water from the Snake River Basin (I.C. § 42-1777). Receipts are deposited from filing fees as outlined in Idaho Code, Section 42-1414. Funds are used to pay Department expenses related to general adjudication costs.

**Northern Idaho Water Rights Adjudication (0337-01)** – This fund was created in 2007 and amended Idaho Code, Section 42-1777 to collect fees associated with the general water rights adjudication for those portions of Northern Idaho that are not included in the Snake River Basin. Funds are used to pay Department expenses related to the Northern Idaho adjudication.

**Federal Grant Fund (0348)** – This fund receives grant reimbursements from the U.S. Department of Energy, U.S. Bureau of Reclamation, U.S. Homeland Security, and the U.S. Environmental Protection Agency for various federal programs. The funds are used to administer various water and energy programs.

**Miscellaneous Revenue Fund (0349)** – This fund receives reimbursements from Water District One and other entities for various projects and services provided by the Department. The funds are used to pay Water District One personnel costs in addition to funding various water and energy resource studies.

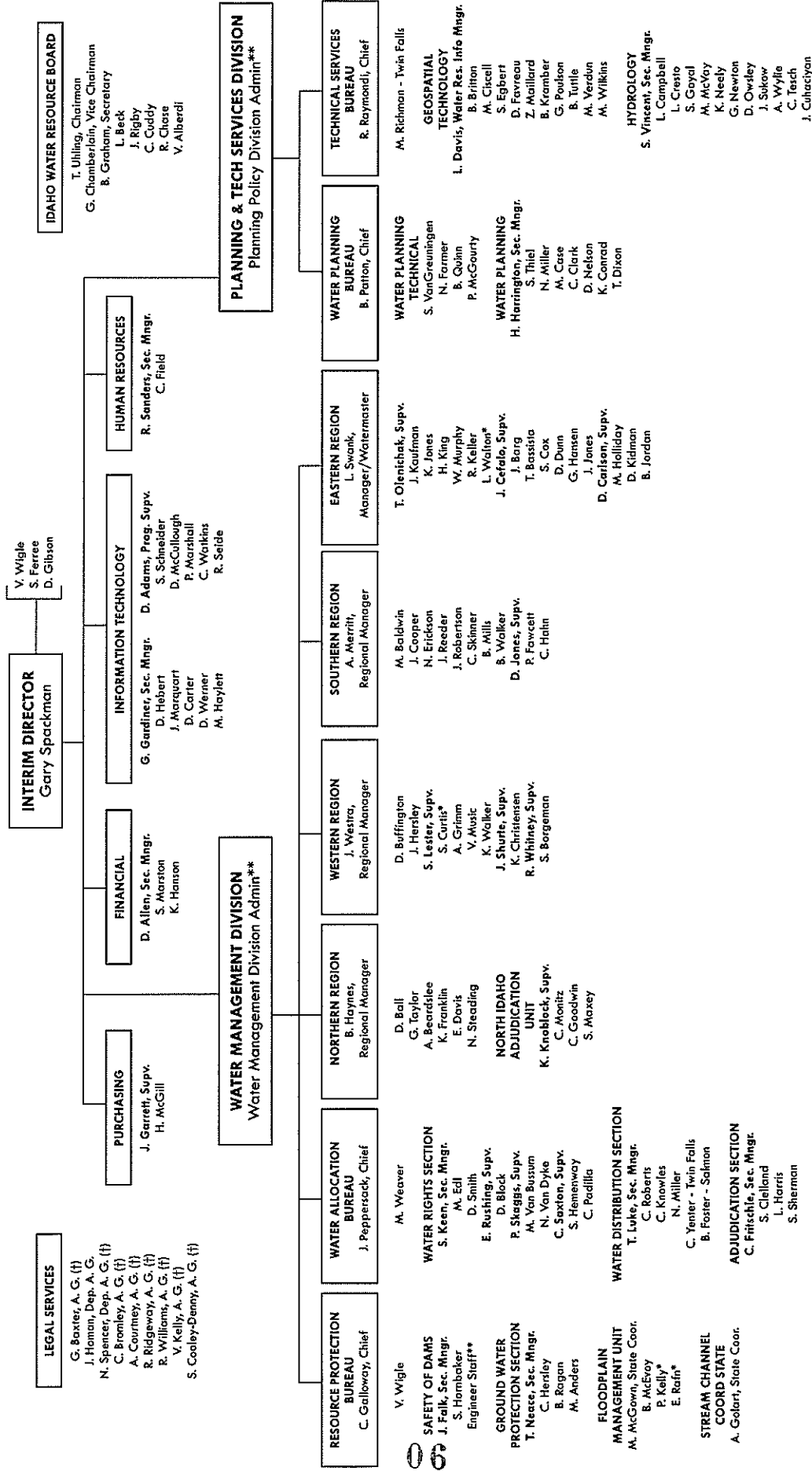
**Revolving Development Fund (0490-01)** – Money deposited into this fund is continuously appropriated and is not subject to the provisions of the Standard Appropriations Act of 1945. This fund receives transfers from the State's General Fund, revenues from water bank activities (renting water), and interest revenues earned from loans. Interest earned by the State Treasurer is also deposited in this fund. This fund is used to make loans for projects that further implement the Idaho State Water Plan in the public interest. Projects are reviewed and approved by the Board according to Idaho Code, Sections 42-1750, 42-1752, and 42-1759.

**Water Management Fund (0490-02)** – Money deposited into this fund is continuously appropriated and is not subject to the provisions of the Standard Appropriations Act of 1945. This fund receives transfers from the State's General Fund, revenues, and interest revenues earned from loans. This fund is used to purchase upstream or off-stream storage water to recharge aquifers, improve water quality, purchase water for recreational purposes, and to study water-related issues. In addition, this fund makes loans for agricultural water-improvement projects and grants. (I.C. § 42-1760)

**Custodial Funds (0630)** – Money deposited into this fund is from cooperative agreements with Idaho Power and the U.S. Geological Survey for stream-gauging projects. In addition, the Department is holding deposits in this fund for the Carey Act.

# Department of Water Resources

## September 2010



\*vacant

\*part-time

(†) Legal Services Staff Support Adj Bureau